



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648-BB34

Fisheries of the Northeastern United States; Northeast Multispecies; Amendment 17

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a fishery management plan amendment; request for comments.

SUMMARY: The New England Fishery Management Council has submitted Amendment 17 to the Northeast Multispecies Fishery Management Plan for review by the Secretary of Commerce. NMFS is requesting comments from the public on Amendment 17, which was adopted by the Council, including an Environmental Assessment prepared by NMFS, to explicitly define and facilitate the effective operation of state-operated permit banks.

DATES: Comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Copies of Amendment 17 are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>

You may submit comments on this document, identified by NOAA-NMFS-2011-0186, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter 0648-BB34 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.
- **Mail:** Submit written comments to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on NE Multispecies Amendment 17.”
- **Fax** (978) 281-9135, Attn: William Whitmore

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fishery Policy Analyst, (978) 281-9182; fax: (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

In 2009 and 2010, NOAA provided nearly \$6 million in funding through Federal grants to the states of Maine, New Hampshire, Massachusetts, and Rhode Island for the express purpose of establishing several “permit banks” of Northeast (NE) multispecies fishing vessel permits. The permit banks were developed jointly by the states and NMFS to help promote the effective implementation of catch share programs in New England and to mitigate some of the potential adverse socio-economic impacts to fishing communities and small-scale fishing businesses. This administrative action would amend the NE Multispecies Fishery Management Plan (FMP) to explicitly define and facilitate the effective operation of state-operated permit banks.

The intent of the permit bank program is for states to use the funding to obtain fishing vessel permits and then to provide the fishing opportunities associated with those permits, in the form of an annual catch entitlement (ACE) and/or days-at-sea, to qualified fishermen. State-operated permit banks are not recognized under the current provisions of the NE Multispecies FMP, and the only entities allocated and authorized to transfer a sector’s ACE to approved sectors are other approved sectors. Currently, the only mechanism available for a state-operated permit bank to operate (i.e., transfer ACE to fishermen in sectors) is for the permit bank to either join an existing sector as a member or to form a sector with other permit holders. Both of these mechanisms unnecessarily complicate the operation of the state-operated permit banks by imposing redundant administrative requirements.

Amendment 17 would define a state-operated permit bank as a permit depository established through an agreement between NOAA and one or more states, in which Federal grant funds are used by the state(s) to establish a bank of Federal fishing vessel permits so that the fishing access privileges associated with those permits may be allocated by the state(s) to qualifying commercial fishermen and sectors according to criteria to which NOAA and the

state(s) have agreed. State-operated permit banks are subject to U.S. Department of Commerce regulations regarding program income, such that any revenue generated by the permit banks may only be used to defray the program costs of operating the permit bank, or must be returned to the Federal Government to reduce the amount of the initial grant award.

Under this amendment, state-operated permit banks would be allocated ACE and specifically authorized to provide that ACE to approved groundfish sectors, and/or to provide days-at-sea (DAS) to vessels for the purpose of enhancing the fishing opportunities available to sector members. State-operated permit banks must comply with the terms and conditions of any applicable Federal grant agreement (i.e., a Federal grant award provided to a state for the purpose of establishing, enhancing, or operating a permit bank), as well as meet the requirements specified in a memorandum of agreement (MOA) established with NMFS for administering the permit bank.

Amendment 17 defines state-operated permit banks as separate entities from the groundfish sectors, and establishes certain minimum criteria for these newly defined entities in order to qualify for the streamlined administrative procedures described in this amendment. This amendment is primarily administrative in nature and does not specifically establish or authorize the formation of any state-operated permit banks. Absent this amendment, such permit banks would remain free to form—subject to support and funding from NOAA—and operate to transfer ACE and/or DAS to sectors, according to the terms and conditions placed upon them by any NOAA grant award and/or MOA signed with NMFS, so long as they fully comply with the administrative and procedural requirements for groundfish sectors currently established in the NE Multispecies FMP.

Public comments are being solicited on Amendment 17, including its Environmental

Assessment, through the end of the comment period stated in this notice of availability. A proposed rule that would implement Amendment 17 will be published in the Federal Register for public comment. Public comments on the proposed rule must be received by the end of the comment period provided in this notice of availability of Amendment 17 to be considered in the approval/disapproval decision on the amendment. All comments received by [insert date 60 days after date of publication in the FEDERAL REGISTER], whether specifically directed to Amendment 17 or the proposed rule for Amendment 17, will be considered in the approval/disapproval decision on Amendment 17. Comments received after that date will not be considered in the decision to approve or disapprove Amendment 17. To be considered, comments must be received by close of business on the last day of the comment period.

Authority: 16 U.S.C. 1801 et seq.

Dated: December 7, 2011

Steven Thur,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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